

From: [Curtin, James](#)
To: [Fotouhi, David](#)
Cc: [Neugeboren, Steven](#); [Schroer, Lee](#)
Subject: FW: Deschutes -- Update on briefing with RA and next steps
Date: Tuesday, May 22, 2018 10:31:00
Attachments: [05.21.2018 Deschutes R10 ORA Briefing.docx](#)
[Enclosure ORA 5-21 briefing.docx](#)

David,

This is an FYI re OW staff's report up their chain re Deschutes briefing for R10 RA yesterday and possible RA call to Dave Ross later this week. Consistent with my recollection of the call.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Havard, James
Sent: Tuesday, May 22, 2018 1:27 PM
To: Goodin, John <Goodin.John@epa.gov>; Wall, Tom <Wall.Tom@epa.gov>
Cc: Lewicki, Chris <Lewicki.Chris@epa.gov>; Curtin, James <curtin.james@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: Deschutes -- Update on briefing with RA and next steps

John –

Jim Curtin and I listened in on the Deschutes briefing yesterday. (b) (5)

[Redacted text block containing several paragraphs and a bulleted list of items, all obscured by grey bars.]

I recommend you send the papers used by the Region for the RA (attached), reforwarding the note below, as background for Dave Ross, in prep for a potential call from the RA. We also can provide additional briefing if needed/appropriate.

My staff and OGC are working with the Region on the details of the decision document.

Thanks!

Jim

From: Goodin, John
Sent: Thursday, May 17, 2018 6:42 PM
To: Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>; Wall, Tom <Wall.Tom@epa.gov>; Havard, James <Havard.James@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>
Subject: Deschutes Update
DELIBERATIVE DRAFT

Dave et al.— the following is some updated info on the Deschutes TMDLs and a recommendation on how to engage you for input prior to Region 10 action on the TMDLs by our June 29 deadline.

(b) (5)

With the RA's views and background info in hand next week, we would be available to brief you or provide the info to you for your review. Recommend that you could then have a call with Chris before the end of May.

(b) (5)

Let me know if we can do anything further.

Thanks,

John

Background

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located in south Puget in Thurston and Lewis Counties, Washington. The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015. That document addresses a total of 73 waterbody-pollutant combinations, involving temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment impairments.

Litigation

On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal.

(b) (5)

Current Status

The CWA requires EPA to either approve or disapprove state-submitted TMDLs, and if we disapprove, we are required to develop a replacement TMDL within 30 days. (b) (5)

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